

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

SAMUEL DONETS , individually and on behalf of all others similarly situated,)	
)	
)	No. 1:20-cv-03551
Plaintiff,)	
v.)	
)	
)	Hon. Franklin U. Valderrama
VIVID SEATS LLC ,)	
)	
Defendant.)	

**PLAINTIFF’S OPPOSED MOTION TO LIFT STAY FOR THE LIMITED
PURPOSE OF GRANTING RELIEF UNDER RULE 23(d)**

Plaintiff, Samuel Donets, hereby moves the Court to lift the stay in the instant case for the limited purpose of granting relief under Rule 23(d) of the Federal Code of Civil Procedure, and states the following in support:

1. The underlying case is a proposed class action brought by Plaintiff, a former employee of Defendant Vivid Seats LLC (“Defendant”), for alleged violations of the Biometric Information Privacy Act (“BIPA”), 740 ILCS § 14/1, *et seq.*

2. Defendant successfully moved to stay this case, *see* Doc. 37—Order granting in part and denying in part Defendant’s motion to stay, premised in part on representations to the Court that failure to enter a stay during the pendency of the appeals in *Tims*, *Marion*, *McDonald*, and *White Castle* would result in undue burden, expense, and unnecessary attorneys’ fees and costs incurred in litigating a case where the claims “may be completely time-barred, preempted, or significantly reduced in scope and value.” (Doc. 32, Mot. ¶¶ 2, 3, 5, 9). Defendant further represented to the Court that it wanted to have its “limited human capital” run its business rather than engage in class action litigation and discovery. (*Id.* ¶ 8).

3. Subsequent to those representations and without asking the Court to lift the stay or providing prior notice to Plaintiff's counsel, Defendant sent to Plaintiff and other putative class members a Cover Sheet, Limited Release of Claims Agreements ("Limited Release") and a Notice of Retention Policy and Consent Form ("Consent Form") (collectively, "communication") in an attempt to settle their claims individually for \$100.

4. The communication with these potential class members is misleading, coercive (as to any current employees), and incomplete in that said communication fails to advise of the damages available under BIPA and fails to advise, among other things, of the pendency of the appeals set forth above.

5. For the reasons stated in the attached Memorandum of Law, Plaintiff respectfully requests that the Court lift the stay in this case for the limited purpose of addressing Plaintiff's Rule 23(d) motion and that the Court also issue an Order pursuant to Rule 23(d)(1) that invalidates any Limited Releases and Consent Form obtained by Defendant, requires Defendant to provide the names, addresses, and email addresses of all employees, former employees, or anyone else who were sent the Cover Sheet, Limited Release, and Consent Form, requires Defendant to provide Plaintiff with any signed copies of the Limited Release and Consent Form, and bars Defendant and its counsel from contacting Plaintiff directly regarding this case.

6. Plaintiff also requests that the Court require a Court-approved corrective notice at Defendant's expense that advises putative class members of (1) the current status of this case, (2) the damages available under BIPA, (3) the issues raised and the current status of *White Castle*, *Tims*, *Marion*, and *McDonald*, (4) that putative class members may contact Plaintiff's counsel for more information or retain their own counsel, and (5) for any relief the Court deems just and proper.

7. Pursuant to the Court's Case Procedures, Plaintiff contacted opposing counsel and asked whether there was an objection to the relief sought in this motion and was advised that Defendant does object to the relief sought herein.

Respectfully submitted,

SAMUEL DONETS, individually and on behalf of
all others similarly situated

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Counsel for Plaintiff and the Putative Class

CERTIFICATE OF SERVICE

I hereby certify that on July 27, 2021, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all attorneys of record.

s/ Wallace C. Solberg
Wallace C. Solberg